



**Ninety-Seventh Legislature - Second Session - 2002**  
**Committee Statement**  
**LB 915**

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**Hearing Date:** January 22, 2002

**Committee On:** Agriculture

**Introducer(s):** (Dierks)

**Title:** Change weights and measures provisions

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**Roll Call Vote – Final Committee Action:**

Advanced to General File

X Advanced to General File with Amendments

Indefinitely Postponed

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**Vote Results:**

|   |                     |   |
|---|---------------------|---|
| 7 | Yes                 | Senators Burling, Cunningham, Dierks, Erdman, Schimek, Schrock, Vrtiska |
| 0 | No                  |   |
| 0 | Present, not voting |   |
| 1 | Absent              | Senator Chambers  |

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**Proponents:**

Senator Cap Dierks, #40  
Merlyn Carlson  
Steve Malone  
Alice Licht  
Ed Woepfel

**Representing:**

Introducer  
Nebraska Department of Agriculture  
Nebraska Department of Agriculture  
Nebraska Agri-Business Association  
Nebraska Cooperative Council

**Opponents:**

Kathy Siefken  
Tim Keigher  
Michelle Swertzic

**Representing:**

Nebraska Grocery Industry Association  
Nebraska Petroleum Marketers Association  
Nebraska Propane Gas Association

**Neutral:**

Vincent Brown  
Pat Ptacek

**Representing:**

American Petroleum Marketers  
Nebraska Grain & Feed Association

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## Summary of purpose and/or changes:

LB 915 is brought by the Department of Agriculture as a clean up to the Nebraska Weights and Measures Act. The bill would adopt by reference the most recent standards of the National Institute of Standards and Technology (NIST). Inspection and registration fees collected under the Act are revised.

### Section by Section Summary:

Section 1: Revises the definition of “certificates of conformance” in 89-183 to recognize both the National Institute of Standards and Technology and the National Conference on Weights and Measures as issuing authorities for a National Type Evaluation Program (NTEP) Certificate of Conformance for weights & measuring devices. The National Conference on Weights & Measures assumed responsibility for the NTEP program and certificate issuance on October 1, 2000. Nebraska law requires that weights and measuring devices in use by Nebraska businesses be manufactured under a certificate of conformance for compliance with performance specifications (e.g. that the weight measured does not vary from actual weight by greater than an agreed tolerance) The amendment is necessary in order to allow devices evaluated under the NTEP program after October 1, 2000 to be sold and used in Nebraska.

Section 2: Amends 89-185 to clarify requirements for standards (physical objects used as a standard for calibrating weighing and measuring devices) used to test accuracy of devices governed by the Act. Current law provides that such standards are to be calibrated as prescribed by the National Institute on Standards & Technology. The amendment incorporates more accurate terminology that they be “traceable” to the primary standards kept by the National Institute on Standards & Technology.

Section 3: Amends 89-186 to adopt the most recent handbooks of the National Institute of Standards and Technology. The handbooks provide a nationally uniform body of regulations that states may incorporate into their own statutes. The amendment to this section adopts the 2001 updates which includes changes made in the 1999, 2000, & 2001 revisions. These include:

- Handbook 44 – Specifications, Tolerances, and Other Technical Requirements for Weighing & Measuring Devices
- Handbook 130 – Uniform Regulation for the Method of Sale of Commodities
- Handbook 130 – Uniform Packaging and Labeling Regulation
- Handbook 133 – Checking the Net Content of Packaged Goods

Section 4: Revised the schedule of annual registration and inspection fees charged under the Act. The amendment actually adopts two sets of fees. The fees beginning on page 12 would be effective for FY 2002 and 2003. The fees beginning on page 14 in new subsection (21) would be in effect for FY2004 and later.

The first revision of fees are prescribed fees. Those in new subsection 21 would provide a statutory cap. The new language regarding fees set beginning in FY2004-05 would add statutory guidance on establishing fees:

1. that fees be set so that estimated annual cash fund revenue does not exceed 107% of the cash fund appropriation

2. that fees be set so that the unobligated cash fund year-end balance does not exceed 17% of the program cash fund appropriation.

This section also adds a penalty provision for late payment of fees of 25% per month for each month the fees are delinquent.

Section 5: Amends 89-198 which current authorizes the Department to establish a laboratory for purposes of certificate of conformance review of measuring devices submitted by manufacturers. Current law provides that such laboratory shall be established under a National Type Evaluation Program (NTEP) operated by the National Institute of Science & Technology. The amendment changes reference to the NTEP program operated by the National Conference on Weights & Measures to reflect that the National Conference assumed NTEP responsibilities from the National Institute on Science and Technology in October of 2001.

**Explanation of amendments, if any:**

The Committee amendments provide that the schedule of device inspection fees prescribed for the period of July 1, 2003 through June 30, 2004 shall be a statutory cap, rather than the actual fee as in the introduced version. The amendments also add a new section 6 to the bill to amend 89-1,100. The amendment would add intent language that beginning in FY 2003-04, cash fund expenditures from the Weights & Measures cash fund be matched by general funds in an amount to achieve an allocation of program costs of 55% general funds, 45% cash funds.

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**Senator Merton L. Dierks, Chairperson**